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13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN FRANCISCO DIVISION

16 UNITED STATES OF AMERICA, ) **CASE NO. 21-cr-243 CRB**  
17 Plaintiff, )  
18 v. )  
19 MILTON THOMAS, )  
20 Defendant. )

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21 On June 10, 2021, defendant Milton Thomas was charged by Indictment with being a prohibited  
22 person in possession of ammunition, in violation of Title 18, United States Code, Section 922(g)(1).

23 This matter came before the Court on February 22, 2022, for a detention hearing. The defendant  
24 was present and represented by Assistant Federal Public Defender Gabriela Bischof. Assistant United  
25 States Attorney Alethea M. Sargent appeared for the government. The Court had on January 21, 2022,  
26 ordered the defendant detained upon the government's motion and based upon a San Francisco Police  
27 Department incident report reflecting an incident allegedly involving the defendant that occurred in  
28 December 2021. Counsel for the government recently received body-worn camera footage of the  
incident in question that it shared with the defendant. Counsel for the defendant requested  
reconsideration of the Court's order detaining the defendant, alleging changed circumstances on the

1 basis of the footage. At the hearing, counsel submitted proffers and arguments regarding detention, as  
2 well as the body-worn camera footage in question.

3 Upon consideration of the facts, proffers and arguments presented, and for the reasons stated on  
4 the record, the Court finds that there are no changed circumstances warranting reconsideration of its  
5 January 21, 2022, finding by clear and convincing evidence that no condition or combination of  
6 conditions will reasonably assure the safety of any other person or the community. Accordingly, the  
7 defendant must be detained pending trial in this matter.

8 The present order supplements the Court's findings and order at the detention hearing and serves  
9 as written findings of fact and a statement of reasons as required by Title 18, United States Code,  
10 Section 3142(i)(1). As noted on the record, the Court makes the following findings as the basis for its  
11 conclusion:

12 The Court previously received a San Francisco Police Department incident report that contained  
13 allegations from an eyewitness who claimed that an individual threatened repeatedly to shoot him with a  
14 gun while they both stood in or near a liquor store in the Tenderloin District. The report the Court  
15 previously reviewed described that, while the reporting officer was interviewing that victim, the victim  
16 pointed out the suspect who threatened him as the suspect was nearby. The report described that the  
17 reporting officer recognized the suspect as the defendant, as the officer knew the defendant from prior  
18 contacts. According to the police report, the defendant saw the officers and fled on foot.

19 Although the body-worn camera footage standing alone does not clearly identify the defendant  
20 as the suspect the officer saw and chased, as noted by counsel for the defendant, it also does not exclude  
21 the defendant as being the suspect. Therefore, any finding of detention continues to be based on the  
22 reporting officer's identification of the suspect whom the victim identified at the scene. The footage  
23 does not undermine the credibility of the officer's identification of the defendant in the police report that  
24 the Court previously reviewed. In fact, in the footage the officer audibly identifies, at least three times  
25 within minutes of seeing him, the defendant as the person whom the victim identified.

26 Therefore, the Court finds that the body-worn camera footage offered by counsel for the  
27 defendant does not constitute changed circumstances sufficient for the Court to reconsider its prior  
28

1 finding by clear and convincing evidence that no condition or combination of conditions will reasonably  
2 assure the safety of any other person or the community.

3 This finding is made without prejudice to the defendant's right to seek review of defendant's  
4 detention, or file a motion for reconsideration if circumstances warrant it.

5 Pursuant to 18 U.S.C. § 3142(i), IT IS ORDERED THAT:

6 1. The defendant be, and hereby is, committed to the custody of the Attorney General for  
7 confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving  
8 sentences or being held in custody pending appeal;

9 2. The defendant be afforded reasonable opportunity for private consultation with counsel;  
10 and

11 3. On order of a court of the United States or on request of an attorney for the government,  
12 the person in charge of the corrections facility in which the defendant is confined shall deliver the  
13 defendant to an authorized United States Marshal for the purpose of any appearance in connection with a  
14 court proceeding.

15 IT IS SO ORDERED.

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17 DATED: February 22, 2022  
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HONORABLE SALLIE KIM  
United States Magistrate Judge